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EXAMINER

AGWUMEZIE, CHARLES C

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3621

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|----------------------------------|----------------------------|--|
| Office Action Summary | Application No. 10/051,048 | Applicant(s) ABE ET AL. | |
| | Examiner Charlie C. Agwumezie | Art Unit 3621 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 7 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-7, and 19-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>01/21/04; 02/02/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Claims 5, and 8-18, are cancelled. Claims 1, and 19, are amended. Claims 20-26, are newly added. Claims 1-4, 6-7, 19, and 21-26 are pending in this application per the response filed on July 24, 2007.

Response to Arguments

2. Applicant's arguments filed July 24, 2007 have been fully considered but they are not persuasive.

With respect to **claims 1, 7, and 19**, Applicant argues that Finch does not disclose or suggest providing field of use data or operating data for each field of use.

In response, Examiner respectfully disagrees and submits that Finch does contemplate and discloses fields of use including farm, lawn and industrial equipments. Alternatively it is well known that a lawn mower is not used for excavation but normally used in the field of lawn mowing. So the field of use could be ascertained by simply mentioning the name of the subject equipment in most instances. In situations where the subject machine is used in multiple fields, the hours of work will still be calculated with identifying exactly which field the machine is used and the hours worked will still be the same regardless.

Applicant further argues that Finch does not disclose or suggest that machinery would be used in multiple fields or that each field would place a different amount of workload on the machine.

In response, Examiner submits that once an attachment tool is attached or affixed on a machinery, it becomes part of the machinery and the amount of workload could be measured based on the amount of work done by the machinery or the amount of work could be measured separately. What is obvious is the amount of work performed by the machinery or attachment tool will still result in the same total amount of workload. Accordingly, it would have been obvious to one of ordinary skill to measure workload of the attachment tool.

Applicant further argues that the information in Finch is manually imputed.

In response, Examiner submits that there is no claim limitation in Applicants' claims which shown that the data is automatically collected by the machine itself.

Applicant further argues that none of the cited references discloses or suggest tracking usage data of attachments to articles.

In response, Examiner asserts that it would have been obvious to one of ordinary skill to track the usage of attachment tools, which become part of the machine once attached or affixed to the machine.

With respect to **claims 2-4 and 20**, Applicant argues are allowable being dependent on independent claims 1 and 19 respectively.

In response, Examiner submits that claims 2-4 and 20 are not patentable being dependent on claims 1 and 19.

With respect to **claim 2**, Applicant further argues that one having ordinary skill in the art would not have been motivated to combine the teachings of Finch and Ukai.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Alternatively KSR forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness.

Applicant further argues that Finch does not disclose or suggest communication with the articles.

In response, Ukai does disclose communication with the articles.

With respect to **claims 3 and 20**, Applicant further argues that Ukai does not disclose service data.

In response, Examiner respectfully disagrees and submits that Ukai discloses service data.

With respect to **claim 6**, Applicant argues that claim 6 is patentable being dependent on claim 1.

In response, Examiner submits that claim 6 is not patentable being dependent on claim 1.

Specification

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3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

a. “determining means for determining total operating hours....”, “...Provision means for providing usage history...”, as recited in claim 19.

b. “data collection means for collecting service data that show facts relating to service...”, “...service history storage means for storing collected service data as service history...”, “...service history provision means for providing the service history for said selected article stored...” as recited in claim 20.

c. “usage data update means for updating the usage history...” as recited in claim 24

d. “usage data collecting means for collecting usage data...”, “determining means for determining total operating hours....”, “usage history provision means for providing the usage history...” as recited in claim 25.

e. “usage data update means for updating the usage history...”, total operating hours updating means for updating...”, as recited in claim 26

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

In **claim 19**, it unclear what is the corresponding structure (and the equivalents thereof) of the “determining means for determining total operating hours....”, “...Provision means for providing usage history...”

In **claim 20**, it unclear what is the corresponding structure (and the equivalents thereof) of the “data collection means for collecting service data that show facts relating to service...”, “...service history storage means for storing collected service data as service history...”, “...service history provision means for providing the service history for said selected article stored...”

In **claim 24**, it unclear what is the corresponding structure (and the equivalents thereof) of the “usage data update means for updating the usage history...”

In **claim 25**, it unclear what is the corresponding structure (and the equivalents thereof) of the “usage data collecting means for collecting usage data...”, “determining means for determining total operating hours....”, “usage history provision means for providing the usage history...”

In **claim 26**, it unclear what is the corresponding structure (and the equivalents thereof) of the “usage data update means for updating the usage history...”, total operating hours updating means for updating...”

Regarding all the means for” phrases, Applicant is again reminded, “For claim clauses containing functional limitation in ‘means for’ terms pursuant to § 112 ¶ 6, the claimed function and its supporting structure in the specification must be presented with sufficient particularity to satisfy the requirements of § 112 ¶ 2.” *S3 Inc. v. nVIDIA corp.*, 259 F.3d 1364, 1367, 59USPQ2d 1745, 1747 (Fed. Cir. 2001) (citations omitted). In

other words, “[f]ailure to describe adequately the necessary structure, material, or acts corresponding to a means-plus-function limitation in the written description means that the drafter has failed to comply with Section 112, Para. 2.” *Atmel Corp. v. Information Storage Devices, Inc.*, 198 F.3d 1374, 1380 53USPQ2d 1225, 1229 (Fed. Cir. 1999) citing *In re Dossel*, 115 F.3d 942, 945, 42 USPQ2d 1881, 1884 (Fed. Cir. 1997).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 7, 19, 21, and 24, are rejected under 35 U.S.C. 102(e) as being anticipated by Finch U.S. patent No. 6,850,902.

As per **claims 1 and 19**, Finch discloses a method performed by a computer system for providing secondhand article information, comprising:

a usage data collection step in which, usage data showing facts relating to usage of a plurality of articles are collected, said collected usage data including (fig. 2; col. 1, lines 50-65; “...the age and hours of usage of the machinery...”);

(a) usage field data for said each article indicating a usage field in which said each article is used (col. 1, lines 54-56; ... disclosed fields of usage include farm, lawn and industrial equipments...); and

(b) operating data for each said article indicating operating hours of said each article used in said usage field, said usage field being selected from among a plurality of usage fields which differ from each other as to a workload placed on an article (col. 1, lines 54-56; ... disclosed fields of usage include farm, lawn and industrial equipments...; col. 5, lines 37-40;hours of use on the equipment...); a total operating hours determining step in which total operating hours by usage field for said each article are determined based on the usage field data and the operating data for said each article included in the usage data (col. 5, lines 37-40;hours of use on the equipment...);

a usage history storage step in which collected usage data are stored as usage history in a database (col. 1, lines 10-20; "...storing information in computerized database..."); and

a usage history provision step in which, the usage history stored in said database and the total operating hours by usage field of an article which is selected by a customer from among the plurality of articles, are provided to the customer via a network, while said plurality of articles is being put up for sale as secondhand articles (fig. 1; col. 1, lines 10-20, 50-65; col. 2, lines 15-20; ...accessible by multiple levels of users...).

As per **claim 7**, Finch further discloses a method further comprising a download step of downloading the usage history or service history for said plurality of articles, which are stored in said data base, to a terminal used by said customer via a network (col. 2, lines 15-50)

As per **claim 21**, Finch discloses the method, further comprising:

a usage data recollecting step in which, when said article is used while said article is being put up for sale as a secondhand article, said usage data are recollected ();

a total operating hours updating step in which the total operating hours by usage field are updated based on the usage field data and the operating data included in the recollected usage data (fig. 2; col. 1, lines 20-30, 50-65; "...up-to-date information relating to among other things, ownership, financing, ...the age and hours of usage of the machinery...");

a usage data updating step in which the usage history of said articles stored in said data base are updated based on the recollected usage data (fig. 2; col. 1, lines 20-30, 50-65; "...up-to-date information relating to among other things, ownership, financing, ...the age and hours of usage of the machinery..."); and

an updated usage history provision step in which the updated usage history stored in said data base and the updated total operating hours by usage field of the selected article are provided to the customer via the network (fig. 2; col. 1, lines 20-30,

50-65; "...up-to-date information relating to among other things, ownership, financing, ...the age and hours of usage of the machinery...).

As per **claim 24**, Finch further discloses the computer system, further comprising:

usage data updating means for updating the usage history of said plurality of articles stored on said data base based on the collected usage data (fig. 2; col. 1, lines 20-30, 50-65; "...up-to-date information relating to among other things, ownership, financing, ...the age and hours of usage of the machinery...); and

total operating hours updating means for updating the total operating hours by usage field (fig. 2; col. 1, lines 50-65; "...the age and hours of usage of the machinery..."); wherein,

said usage data collecting means recollects said usage data of said plurality of articles when said plurality of articles is used while said plurality of articles is being put up for sale as secondhand articles (fig. 2; col. 1, lines 20-30, 50-65; "...up-to-date information relating to among other things, ownership, financing, ...the age and hours of usage of the machinery...);

said usage data updating means updates the usage history of said plurality of articles stored in said data base (fig. 1; col. 1, lines 10-20, 50-65; col. 2, lines 15-20);

said total operating hours updating means update the total operating hours by usage field based on the usage field data and the operating data included in the recollected usage data (fig. 2; col. 1, lines 20-30, 50-65; "...up-to-date information

relating to among other things, ownership, financing, ...the age and hours of usage of the machinery...); and

said usage history provision means provides the customer via the network with the updated usage history of said article stored in said data base and the updated total operating hours by usage field (fig. 1; col. 1, lines 10-20, 50-65; col. 2, lines 15-20).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 23, 25, and 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Finch U.S. patent No. 6,850,902.

As per **claims 22 and 25**, Finch discloses a computer system for providing information about secondhand articles, comprising:

usage data collecting means for collecting usage data that show facts relating to usage of a plurality of articles, including attachment data for each article indicating an attachment used by said each article and operating data indicating operating hours of said each article for respective attachments (fig. 2; col. 1, lines 50-65; "...the age and hours of usage of the machinery...");

total operating hours determining means for determining total operating hours by attachment for said each article based on the attachment data for said each article and the operating data for said each article included in the usage data (fig. 2; col. 1, lines 50-65; "...the age and hours of usage of the machinery...");

a data base (col. 1, lines 10-20; "...storing information in computerized database...");

usage history storage means that stores the collected usage data as usage history on said data base (col. 1, lines 10-20; "...storing information in computerized database..."); and

usage history provision means for providing the usage history stored in said data base and the total operating hours by attachment for an article which is selected by a customer from among said plurality of articles, to the customer via a network, while said plurality of articles are being put up for sale as secondhand articles (fig. 1; col. 1, lines 10-20, 50-65; col. 2, lines 15-20; ...accessible by multiple levels of users...).

What Finch does not explicitly disclose is attachments data for each article.

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Finch and incorporate the attachments data for each article because the attachment tool becomes part of the machinery once it is attached to the machine or in the alternative it would have been obvious to report separate data for the attachment.

As per claims 23 and 26, Finch discloses the computer system, further comprising:

usage data updating means for updating the usage history of said plurality of articles stored on said data base based on the collected usage data; and
total operating hours updating means for updating the total operating hours by attachment (fig. 2; col. 1, lines 20-30, 50-65; "...up-to-date information relating to among other things, ownership, financing, ...the age and hours of usage of the machinery...");
wherein,

said usage data collecting means recollects said usage data of said plurality of articles when said plurality of articles is used while said plurality of articles is being put up for sale as secondhand articles (fig. 2; col. 1, lines 20-30, 50-65; "...up-to-date information relating to among other things, ownership, financing, ...the age and hours of usage of the machinery...");

said usage data updating means updates the usage history of said plurality of articles stored in said data base; said total operating hours updating means update the total operating hours by attachment based on the attachment data and the operating data included in the recollected usage data (fig. 1; col. 1, lines 10-20, 50-65; col. 2, lines 15-20); and

said usage history provision means provides the customer via the network with the updated usage history of said article stored in said data base and the updated total operating hours by attachment (col. 1, lines 50-65; "...the age and hours of usage of the machinery...").

What Finch does not explicitly disclose is attachments data for each article.

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Finch and incorporate the attachments data for each article because the attachment tool becomes part of the machinery once it is attached to the machine or in the alternative it would have been obvious to report separate data for the attachment.

7. **Claims 2-4, and 20**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Finch U.S. patent No. 6,850,902 in view of Ukai U.S. Patent Application Publication No. 2003/0191581 A1.

As per **claim 2**, Finch failed to explicitly disclose a method, wherein said usage data collection step includes a step for collecting usage data for said plurality of articles by communicating with said plurality of articles from a remote location away from said plurality of articles.

Ukai et al discloses a method , wherein said usage data collection step includes a step for collecting usage data for said plurality of articles by communicating with said plurality of articles from a remote location away from said plurality of articles (see abstract; fig. 5; 0011; 0012; 0015).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Finch and incorporate the method, wherein said usage data collection step includes a step for collecting usage data for

said plurality of articles by communicating with said plurality of articles from a remote location away from said plurality of articles as taught by Ukai because such service will facilitate real time update of the condition of the said article required by potential customer for the purposes of evaluating the condition of the article before purchase.

As per **claim 3, and 20**, Finch failed to explicitly disclose a method further comprising:

- a service data collection step in which, service data that show the facts relating to the service of the said plurality of article are collected, when said plurality of article has been serviced;

- a service history storage step in which collected service data are stored as service history in said data base; and

- a service history provision step in which, the service history for said selected article stored in said data base, is provided to a customer via a network, when said plurality of articles is being put up for sale as a secondhand articles

Ukai et al discloses a service data collection step in which, service data that show the facts relating to the service of the said plurality of article are collected, when said plurality of article has been serviced (fig. 6; 0103; 0133; 0134; 0137);

- a service history storage step in which collected service data are stored as service history in said data base (fig. 6; 0103; 0133; 0134); and

- a service history provision step in which, the service history for said selected article stored in said data base, is provided to a customer via a network, when said

plurality of articles is being put up for sale as a secondhand articles (fig. 2, 5; 0133; 0134; 0137)

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Finch and incorporate the ability to provide a service history data, while said article is being put up for sale as a secondhand article, service history data are provided to the customer via the network as taught by Ukai et al in order to make available the service history data immediately available to the potential customer for the purposes of evaluating the condition of the article before purchase.

As per **Claims 4**, Finch does not expressly show a system wherein said usage data collection steps, said usage history storage step, and said usage history provision step are conducted simultaneously in parallel so that said plurality of articles still in use can be put up for sale as a secondhand articles.

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The usage data collection steps, usage history storage step, and usage history provision step would be performed the same regardless of the order. Thus, this descriptive material will not distinguish the claimed invention from prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

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Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide parallel processing of data because such data does not functionally relate to the steps in the method or system claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

8. **Claim 6**, is rejected under 35 U.S.C. 103(a) as being unpatentable over Finch U.S. Patent 6,850,902 in view of Rose Jr. (hereinafter Rose) U.S. Patent No. 6,076,064.

As per **claim 6**, Finch failed to explicitly disclose a method wherein said usage data includes photographic data showing actual images of said article.

Rose discloses a method wherein said usage data includes photographic data showing actual images of said article (col. 7, lines 20-40).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Finch and incorporate the ability to provide a usage data wherein said usage data includes photographic data showing actual images of said article as taught by Rose in order to make available the actual images and current state of the article visually apparent to potential customer before purchase.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of

the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on **(571) 272 – 6712**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Charlie Lion Agwumezie
Patent Examiner
Art Unit 3621

Acc
September 21, 2007.



ANDREW J. FISCHER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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